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ATTORNEYS FOR PLAINTIFF**

**IN THE UNITED STATE DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION**

MARY PAT BROWN, as
Guardian Ad Litem of A.T.,

Plaintiff,

v.

FLORENCE-CARLTON SCHOOL
DISTRICT 15-6 AND DOES 1-5,

Defendants.

Cause No.:

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

COMES NOW MARY PAT BROWN, as court-ordered Guardian Ad Litem of A.T., a minor, by and through her attorneys of Everett Cook Law and Morrison, Sherwood, Wilson, Deola, PLLP and for her causes of action against the defendants, for **which she demands a jury trial**, claims and alleges as follows:

I

MARY PAT BROWN is a resident of the City of Deer Lodge, County of Powell, State of Montana. A.T. is a resident of the City of Lolo, County of Missoula, State of Montana. The basis for jurisdiction is 28 U.S.C. § 1331, and the Federal Courts have original jurisdiction of all civil actions arising under the laws of the United States.

II

For all times material herein, Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 is now and has been a public school district and a political subdivision of the State of Montana located in Ravalli and Missoula County, MT.

III

DOES 1-5 are individuals or entities that may be responsible for some or all of Plaintiff's damages. The identity of these parties will be substituted upon discovery.

IV

On approximately November 12th, 2019, a fellow student sexually assaulted A.T. during a high school class in a Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 classroom. That same day, the event was reported to Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 administration.

V

Despite having received notice that A.T. was sexually assaulted by a fellow student in a Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 classroom, Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 did not remove the student but rather allowed the student perpetrator to continue attending school with A.T. in the same classroom for several days after the event.

VI

On approximately November 21st, 2019, and only after A.T. obtained a protective order against him, Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 finally removed the student perpetrator from the classroom and the school.

VII

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 was responsible for the supervision of A.T. and the student perpetrator at the time A.T. was sexually assaulted.

VIII

Defendants FLORENCE-CARLTON SCHOOL DISTRICT 15-6 engaged in negligent and intentional conduct towards A.T. described above and below, causing her harm.

COUNT I NEGLIGENCE

IX

Plaintiff realleges the allegations in Paragraphs I-VIII of this complaint.

X

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 did act negligently causing A.T. harm, including but not limited to severe and serious mental distress, mental and physical injury and past and future medical expenses, and past and future lost income, loss of established course of life and impairment to earning capacity for which Plaintiff claims damages.

**COUNT II
LIABILITY UNDER TITLE IX**

XI

Plaintiff realleges the allegations in Paragraphs I-X of this complaint.

XII

Title IX provides that "[n]o person shall, on the basis of sex, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." 20 U.S.C. §1681(a).

XIII

On information and belief, Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 receives federal financial assistance for the operation of its schools and educational programs and activities.

XIV

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 is liable for the student perpetrator's harassment and sexual assault of A.T. under Title IX as it 1) exercised substantial control over both the harasser and the context, 2) A.T. suffered sexual harassment that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or

benefits provided by the school, 3) the school had actual knowledge of the harassment, and 4) the school's response amounted to deliberate indifference that makes students vulnerable to harassment.

XV

Plaintiff claims money damages against FLORENCE-CARLTON SCHOOL DISTRICT 15-6 for its violation of Title IX and the resulting damages it caused to A.T., including but not limited to her severe and serious mental distress, mental and physical injury and past and future medical expenses, and past and future lost income, the cost of reschooling, loss of established course of life and impairment to earning capacity, attorney fees and costs and expert witness costs.

COUNT III NEGLIGENT SUPERVISION OF STUDENT

XVI

Plaintiff realleges the allegations in Paragraphs I-XV of this complaint.

XVII

A.T. and the student perpetrator were students attending a high school under the care and custody of Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 when the student perpetrator sexually assaulted A.T.

XVIII

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 owed a duty to exercise reasonable care in supervising A.T. and the student perpetrator to prevent the student perpetrator from sexually assaulting A.T.

XIX

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 breached its duty to exercise reasonable care in supervising A.T. and the student perpetrator to prevent A.T. from being sexually assaulted by the student perpetrator, causing her harm, including but not limited to severe and serious mental distress, mental and physical injury and past and future medical expenses, and past and future lost income, loss of established course of life, and impairment to earning capacity for which Plaintiff claims damages.

**COUNT IV
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

XX

Plaintiff realleges the allegations in paragraphs I-XIX of this complaint.

XXI

That the negligent conduct of Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 as set forth herein have caused A.T. to suffer and

continue to suffer serious and severe mental and emotional distress for which plaintiff claims damages.

XXII

That A.T. 's serious and severe mental and emotional distress was a foreseeable consequence of Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6's negligent conduct as set forth herein.

**COUNT V
PUNITIVE DAMAGES**

XXIII

Plaintiff realleges the allegations in paragraphs I-XXII of this complaint.

XXIV

Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 acted with reckless or callous indifference to the federally protected rights of others, and therefore should be required to pay Plaintiff punitive damages.

WHEREFORE, Plaintiff MARY PAT BROWN, as court-ordered Guardian Ad Litem of A.T., a minor prays judgment against Defendant FLORENCE-CARLTON SCHOOL DISTRICT 15-6 as follows:

1. For A.T.'s past present and future medical and mental health expenses for the care and treatment of her injuries;
2. For A.T.'s past, present, and future lost wages;
3. For A.T.'s schooling costs;
4. For A.T.'s impairment to earning capacity;
5. For A.T.'s value of lost household services;
6. For all other general damages including mental and physical pain and suffering and emotional distress;
7. For punitive damages;
8. For attorney's fees and cost; and
9. For such other and further equitable relief that the Court deems just and proper.

DATED THIS ____ 13th ____ DAY OF APRIL, 2022.

MORRISON SHERWOOD WILSON DEOLA, PLLP

BY: /S/Robert Farris-Olsen
Robert Farris-Olsen
Attorney for plaintiff